

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

BARRY LEE HAMLETT, a/k/a Terry Davis  
#146-7475.

Petitioner

v

WARDEN P. MORGAN, and  
THE ATTORNEY GENERAL OF THE  
STATE OF MARYLAND

Respondents

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Civil Action No. CCB-16-781

**MEMORANDUM**

On March 16, 2016, Barry Lee Hamlett filed a motion for leave to proceed in forma pauperis and a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging his convictions in the Circuit Court for Baltimore City, Maryland in 2005 for attempted murder, reckless endangerment and handgun offenses in criminal cases 10405005 and 1040507006. (ECF 1, 2). Hamlett's motion to proceed in forma pauperis will be granted as he demonstrates he is indigent.

This petition represents Hamlett's second habeas challenge to his convictions. *See Hamlett v. Green, et al.* Civil Action No. CCB-12-2339. On May 29, 2014, the court denied and dismissed Hamlett's first § 2254 petition on the merits, and he appealed. The United States Court of Appeals for the Fourth Circuit denied Hamlett's request for a certificate of appealability and dismissed his appeal on October 23, 2014. *See Hamlett v. Green*, 585 Fed. App'x. 71 (4th Cir. 2014).

Under 28 U.S.C. § 2244, a petitioner may file a second or successive habeas corpus petition only if he has first moved and obtained from the appropriate circuit court an order

authorizing the district court to consider his application. *See* 28 U.S.C. § 2244(b)(3); *Felker v. Turpin*, 83 F.3d 1303, 1305-07 (11th Cir. 1996). This court may not consider a second or successive § 2254 petition until the United States Court of Appeals for the Fourth Circuit enters an order authorizing the court to do so. *See* 28 U.S.C. § 2244(b)(3)(A); *see also In re Vial*, 115 F.3d 1192, 1197-98 (4th Cir. 1997). Because it does not appear that Hamlett has complied with this requirement, the pending application for habeas corpus relief must be dismissed pursuant to 28 U.S.C. § 2244(b)(3).

When a district court dismisses a habeas petition solely on procedural grounds, a certificate of appealability will not issue unless the petitioner can demonstrate both “(1) ‘that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right’ and (2) ‘that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.’” *Rouse v. Lee*, 252 F.3d 676, 684 (4th Cir. 2001) (quoting *Slack v. Daniel*, 529 U.S. 473, 484 (2000)). Because Hamlett has not made a substantial showing of the denial of his constitutional rights, a certificate of appealability shall not issue.

A separate order dismissing this case without prejudice follows.

March 22, 2016  
Date

/S/  
Catherine C. Blake  
United States District Judge